

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

LIGHTHOUSE RESOURCES INC., et al.,

Plaintiffs,

and

BNSF RAILWAY COMPANY,

Plaintiff-Intervenor,

v.

JAY INSLEE, et al.,

Defendants,

and

WASHINGTON ENVIRONMENTAL
COUNCIL, et al.,

Defendant-Intervenors.

NO. 3:18-cv-05005-RJB

JOINT STATUS REPORT

Pursuant to the Court's Order dated April 19, 2021, the parties submit this joint status report.

Plaintiff Lighthouse Resources, Inc., and its subsidiary, Millennium Bulk Terminals—Longview (Lighthouse), sought to construct a large coal export terminal on the banks of the Columbia River in Cowlitz, County, Washington. The Department of Ecology denied Lighthouse's application for a Clean Water Act § 401 certification for the proposed facility and the Department of Natural Resources denied Lighthouse's request to sublease the state-owned

1 aquatic lands on which the facility would have been constructed. Lighthouse brought this suit
 2 challenging those decisions on various grounds, including federal preemption and violation of
 3 the dormant Commerce Clause.

4 After rulings by this Court dismissing some of Lighthouse's claims, and abstaining on
 5 others, Lighthouse appealed to the Ninth Circuit. However, in December 2020, while the
 6 appeal was pending, Lighthouse, Millennium, and related companies filed voluntary
 7 bankruptcy petitions in the bankruptcy court in Delaware. Shortly thereafter, Lighthouse
 8 divested itself of the property on which the terminal would have been constructed, and sold all
 9 or substantially all of its remaining assets. The Ninth Circuit dismissed the appeal as moot in
 10 March 2021.

11 Lighthouse's bankruptcy and subsequent divestment of its interest in the terminal
 12 property means that Lighthouse no longer has a stake in the outcome of this case. As a result,
 13 the case is moot and should be dismissed with prejudice. *Maldonado v. Lynch*, 786 F.3d 1155,
 14 1160–61 (9th Cir. 2015); *Pub. Utils. Comm'n of State of Cal. v. Fed. Energy Regulatory*
 15 *Comm'n*, 100 F.3d 1451, 1458 (9th Cir. 1996) (case was moot when the project proponent
 16 abandoned its proposed project). Plaintiff-Intervenor BNSF Railway Company has no
 17 objection to the case being dismissed.

18 The parties agree that there is nothing further to litigate in this case and that it may be
 19 dismissed with prejudice as moot, without fees or costs to any party.

20 DATED this 27th day of April 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2021, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

DATED this 27th day of April 2021.

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